

MEMORANDUM OF UNDERSTANDING

TO: Boston Redevelopment Authority Staff  
FROM: Harvard Community Health Plan  
DATE: December 9, 1977

Re: 133-141 Brookline Avenue

This Memorandum sets forth the essential terms of an understanding between Harvard Community Health Plan, Inc. ("HCHP"), a Massachusetts charitable, medical, and educational corporation and the Boston Redevelopment Authority ("BRA") with respect to payments in lieu of real estate taxes to be made by HCHP in respect of the premises located at 133-141 Brookline Avenue, Boston, Massachusetts (the "Premises") which HCHP intends to acquire. HCHP and the BRA intend that HCHP and the City of Boston enter into a formal agreement incorporating the following terms as soon as reasonably practicable. However, it is understood that, on the basis of this Memorandum: (i) the BRA will recommend approval of the applications for a conditional use permit and variance under the Boston Zoning Code pertaining to the Premises and will assist and cooperate with HCHP in obtaining a building permit for the Premises; and (ii) HCHP may take title to the Premises and incur additional costs and expense.

The essential terms of the understanding between BRA and HCHP are as follows:

1. HCHP will make payments in lieu of taxes to the City of Boston in each year, calculated as follows:

1.1. Gross Revenues from Parking. 30% of gross revenues received by HCHP in respect of parking fees paid by all visitors to the Premises except employees of HCHP and members of its medical staff. By way of illustration, it is expected that the Premises will initially have 125 spaces available for patient use, that such spaces will turn over at a rate of four times per day 250 days a year and that the average parking fee will be \$1.00. Applying these assumptions, 30% of gross revenues would equal a minimum of \$37,500.

\$ 37,500



1.2. Per Capita Payments. An amount equal to the per capita amount now being paid as taxes in leased premises in Boston for all HCHP patients from time to time served in the Premises ( $\$61,000 \text{ taxes} \div 37,000 \text{ members} = \$1.65$ ); provided that for purposes of the 1979 computation such membership shall not be less, but may be more, than 50,000 ( $\$1.65 \times 50,000 = \$82,450$ ); less a fixed annual credit of \$37,000 in recognition of the duplication in payments which can result from a combination of the formulae in paragraphs 1.1 and 1.2 hereof ( $\$82,500 - \$37,000 = \$45,500$ ). \$ 45,500

1.3. Lease Payments from Massachusetts College of Art ("MCA"). 25% of the base rent subject to escalation in accordance with increases in the tax rate (the "Supplemental Rent") received from MCA, if and to the extent received from MCA, it being understood that HCHP shall be entitled to retain the full base rent (which is primarily intended to reimburse HCHP for capital expenditures made by HCHP for MCA's benefit) before making any payment pursuant to this provision. HCHP expects to enter into a lease agreement with MCA for a portion of the Premises having a lease term of five years and annual base rent of approximately \$238,000 ( $\$238,000 \times 25\% = \$59,500$ ). \$ 59,500

1.4. Other Lease Payments. In the event that HCHP enters into other lease agreements covering any portion of the Premises, 25% of the gross revenues under each such lease if the use of such leased premises would otherwise be taxable under the General Laws of The Commonwealth of Massachusetts and 15% of such gross revenues if the use would not be so taxable. ?

1.5. Credits for Public Improvements. Less a credit of \$12,000 per year for the first 20 years of the tax agreement in recognition of 80% of the \$300,000 capitalized cost of the public improvements to be made by HCHP in the area of the Premises which will accrue to the benefit of the City of Boston ( $80\% \times \$300,000 \div 20 \text{ years} = \$12,000$ ). - \$ 12,000  
\$132,500

2. Credits for Other Payments to City. If at any time HCHP is required to pay any tax, excise, charge or assessment (other than sewer and water charges) to the City of Boston in



respect of the Premises or the use and occupancy thereof, then the aggregate amount of any such taxes paid or payable by HCHP shall reduce (cumulatively until such aggregate amount has been exhausted) the payment or payments next to be made by HCHP hereunder and, if such aggregate amounts exceed payments to be made hereunder, such excess amounts shall be forgiven or, if paid, shall be refunded.

3. Increases in Tax Rate. If, as of the commencement of any calendar year, the real estate tax rate applicable to taxable property comparable to the Premises during the fiscal year most recently ended exceeds \$252.90, any amounts payable under paragraphs 1.1, 1.2, and 1.4 hereof shall be increased by multiplying such amount by the percentage difference in such rates. Any decrease in such rate below \$252.90 shall not reduce amounts payable hereunder.

4. Maximum Payment. Notwithstanding the foregoing, in no event shall HCHP be required to make payments in lieu of taxes to the City hereunder for any calendar year more than the amount which would have been payable to the City had the Premises and the tangible personal property of the Owner used in connection with the operation of the Premises not been exempted from taxation and not subject to this Agreement.

5. Premises Off Tax Rolls. The Premises shall be taken off the tax rolls of the City of Boston as of the date that HCHP takes title to the Premises.

6. Term of Agreement and Payments. The term of the Agreement shall be 30 years (the anticipated term of HCHP's mortgage loan required to renovate the Premises). Payments hereunder shall be on a calendar year basis and shall be made in equal installments on May 1 and November 1 in each calendar year, the first such payment to be made on May 1, 1979 for the calendar year 1979.

7. Calendar Year 1978 Assessment. Notwithstanding the foregoing provisions, if and to the extent HCHP becomes obligated to satisfy any real estate tax liability to the City for all or a portion of any fiscal real estate tax year by reason of having taken title to the Premises subject to liens for taxes assessed as of January 1, 1977 or January 1, 1978, the amount of any taxes paid, directly or indirectly, by HCHP pursuant to such liability shall reduce (cumulatively until such tax payments have been exhausted) the payments next to be made hereunder.



MEMORANDUM

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: Robert F. Walsh, Director

SUBJECT: HARVARD COMMUNITY HEALTH PLAN, INC./FORMER S. S. PIERCE  
BUILDINGS - 131-141 BROOKLINE AVENUE

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On December 9, 1977, the Harvard Community Health Plan, Inc. submitted a proposal to the Authority which agreed to make an annual in-lieu of tax payment to the City of \$132,500, beginning in May, 1979. This amount is based on a per capita amount, commercial parking receipts and rental space income (see attached memorandum to me from HCHP for a more detailed breakdown of this amount).

Although in 1976, Pierce Realty Co., Inc., the present owners of 131-141 Brookline Avenue, paid the City a tax of \$183,605, the proposed payment of \$132,500, which is equivalent to over a half million dollar assessment, is a good precedent for the City of Boston. The payment in-lieu of taxes has been agreed to "in principle" by the City Treasurer and City Assessor. An appropriate Vote follows:

VOTED: The Authority accepts the December 9, 1977, proposal by Harvard Community Health Plan, Inc., subject to the signing of a contract with the City, to make an annual payment to the City of \$132,500 commencing in May of 1979, with said payment adjusted proportionately to changes in the Boston tax rate. The Zoning Advisor is authorized to notify the Board of Appeal that the Authority hereby ratifies the previous action of the Authority in approving the Petition Z-4041, 4042, however, subject now to the execution of a payment in-lieu of tax agreement in the amount of \$132,500.

Attachment